



BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Notice of Inflation Adjustments for Civil Money Penalties

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of Monetary Penalties 2018.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is providing notice of its maximum civil money penalties as adjusted for inflation. The inflation adjustments are required to implement the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: The adjusted maximum amount of civil money penalties in this notice are applicable to penalties assessed on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], for conduct occurring on or after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Kevin Korzeniewski, Counsel, Legislative and Regulatory Activities Division, (202) 649-5490, or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION: This notice announces changes to the maximum amount of each civil money penalty (CMP) within the OCC's jurisdiction to administer to account for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Adjustment Act),¹ as amended by the Federal Civil

¹ Pub. L. 101-410, Oct. 5, 1990, 104 Stat. 890, codified at 28 U.S.C. 2461 note.

Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Adjustment Act).² Under the 1990 Adjustment Act, as amended, federal agencies must make annual adjustments to the maximum amount of each CMP the agency administers. The Office of Management and Budget (OMB) is required to issue guidance to federal agencies no later than December 15 of each year providing an inflation adjustment multiplier (*i.e.* the inflation adjustment factor agencies must use) applicable to CMPs assessed in the following year. The agencies are required to publish their CMPs, adjusted pursuant to the multiplier provided by OMB, by January 15 of the applicable year.

To the extent an agency has codified a CMP amount in its regulations, the agency would need to update that amount by regulation. However, if an agency has codified the formula for making the CMP adjustments, then subsequent adjustments can be made solely by notice.³ Contemporaneous with this notice, the OCC also submitted for publication a final regulation to remove the now-outdated CMP amounts from its regulations, while updating those amounts for inflation through this notice.

On December 15, 2017, the OMB issued guidance to affected agencies on implementing the required annual adjustment, which included the relevant inflation multiplier. The OCC has applied that multiplier to the maximum CMPs allowable in 2017 for national banks and federal savings associations in 12 CFR 19.240(c) and

² Pub. L. 114-74, Title VII, section 701(b), Nov. 2, 2015, 129 Stat. 599, codified at 28 U.S.C. 2461 note.

³ See OMB Memorandum M-18-03, “Implementation of the 2018 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,” at 4, which permits agencies that have codified the formula to adjust CMPs for inflation to update the penalties through a notice rather than a regulation.

109.103(c), respectively, to calculate the maximum amount of CMPs that may be assessed by the OCC in 2018.⁴

The following charts provide the inflation-adjusted CMPs for use beginning on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], pursuant to 12 CFR 19.240(c) and 109.103(c) for conduct occurring on or after November 2, 2015:

⁴ Penalties assessed for violations occurring prior to November 2, 2015, will be subject to the maximum amounts set forth in the OCC's regulations in effect prior to the enactment of the 2015 Adjustment Act.

Penalties Applicable to National Banks

<u>U.S. Code Citation</u>	<u>Description and Tier (if applicable)</u>	<u>Maximum Penalty Amount (in Dollars)¹</u>
12 U.S.C. 93(b)	Violation of Various Provisions of the National Bank Act: Tier 1 Tier 2 Tier 3	9,819 49,096 1,963,870 ²
12 U.S.C. 164	Violation of Reporting Requirements: Tier 1 Tier 2 Tier 3	3,928 39,278 1,963,870 ²
12 U.S.C. 481	Refusal of Affiliate to Cooperate in Examination	9,819
12 U.S.C. 504	Violation of Various Provisions of the Federal Reserve Act: Tier 1 Tier 2 Tier 3	9,819 49,096 1,963,870 ²
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act: Tier 1 Tier 2 Tier 3	9,819 49,096 1,963,870 ²
12 U.S.C. 1818(i)(2) ³	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty: Tier 1 Tier 2 Tier 3	9,819 49,096 1,963,870 ²
12 U.S.C. 1820(k)(6)(A)(ii)	Violation of Post-Employment Restrictions: Per violation	323,027
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instrument for Transfers to Third Parties: Per violation	2,852
12 U.S.C. 1884	Violation of the Bank Protection Act	285
12 U.S.C. 1972(2)(F)	Violation of Anti-Tying Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty: Tier 1 Tier 2	9,819 49,096

¹ The maximum penalty amount is per day, unless otherwise indicated.

² The maximum penalty amount for a national bank is the lesser of this amount or 1 percent of total assets.

³ These amounts also apply to CMPs in statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1693o, 1681s, 1691c, and 1692l.

<u>U.S. Code Citation</u>	<u>Description and Tier (if applicable)</u>	<u>Maximum Penalty Amount (in Dollars)¹</u>
	Tier 3	1,963,870 ²
12 U.S.C. 3110(a)	Violation of Various Provisions of the International Banking Act (Federal Branches and Agencies):	44,881
12 U.S.C. 3110(c)	Violation of Reporting Requirements of the International Banking Act (Federal Branches and Agencies): Tier 1 Tier 2 Tier 3	3,591 35,904 1,795,216 ²
12 U.S.C. 3909(d)(1)	Violation of International Lending Supervision Act	2,443
15 U.S.C. 78u-2(b)	Violation of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act: Tier 1 (natural person) – Per violation Tier 1 (other person) – Per violation Tier 2 (natural person) – Per violation Tier 2 (other person) – Per violation Tier 3 (natural person) – Per violation Tier 3 (other person) – Per violation	9,239 92,383 92,383 461,916 184,767 923,831
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements: First violation Subsequent violations	11,279 22,556
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation	2,133

Penalties Applicable to Federal Savings Associations

<u>U.S. Code Citation</u>	<u>CMP Description</u>	<u>Maximum Penalty Amount (in Dollars)¹</u>
12 U.S.C. 1464(v)	Reports of Condition: 1 st Tier 2 nd Tier 3 rd Tier	3,928 39,278 1,963,870 ²
12 U.S.C. 1467(d)	Refusal of Affiliate to Cooperate in Examination	9,819
12 U.S.C. 1467a(r)	Late/Inaccurate Reports: 1 st Tier 2 nd Tier 3 rd Tier	3,928 39,278 1,963,870 ²
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act: Tier 1 Tier 2 Tier 3	9,819 49,096 1,963,870 ²
12 U.S.C. 1818(i)(2) ³	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty Tier 1 Tier 2 Tier 3	9,819 49,096 1,963,870 ²
12 U.S.C. 1820(k)(6)(A)(ii)	Violation of Post-Employment Restrictions: Per violation	323,027
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instruments for Transfers to Third Parties: Per violation	2,593
12 U.S.C. 1884	Violation of the Bank Protection Act	285
12 U.S.C. 1972(2)(F)	Violation of Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty: Tier 1 Tier 2 Tier 3	9,819 49,096 1,963,870 ²
15 U.S.C. 78u-2(b)	Violations of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act: 1 st Tier (natural person) – Per violation 1 st Tier (other person) – Per violation 2 nd Tier (natural person) – Per violation 2 nd Tier (other person) – Per violation	9,239 92,383 92,383 461,916

¹ The maximum penalty amount is per day, unless otherwise indicated.

² The maximum penalty amount for a federal savings association is the lesser of this amount or 1 percent of total assets.

³ These amounts also apply to statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1681s, 1691c, and 1692l.

<u>U.S. Code Citation</u>	<u>CMP Description</u>	Maximum Penalty Amount (in Dollars) ¹
	3 rd Tier (natural person) – Per violation 3 rd Tier (other person) – Per violation	184,767 923,831
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements: First violation Subsequent violations	11,279 22,556
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation	2,133

Dated: January 9, 2018

Karen Solomon,
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Office of the Comptroller of the Currency.
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